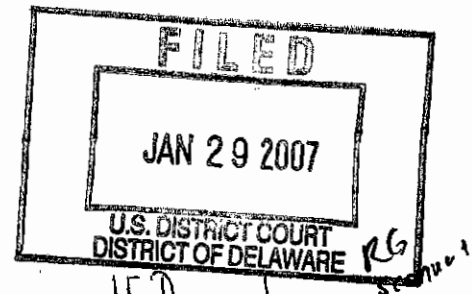


IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MANUEL NIEVES,
PETITIONER,

v.
THOMAS CARROLL, WARDEN
and CARL DANBERG, ATTORNEY
GENERAL FOR THE STATE OF DELAWARE,
RESPONDENTS.

Civ. Act. No. 06-320-GMS



PETITIONER'S REQUEST FOR EXPANSION OF RECORD

PURSUANT TO RULES 7(A) AND 7(B) GOVERNING SECTION 2254 ACTIONS, 28 U.S.C. 2254, THE PETITIONER STATE THE FOLLOWING AS SUPPORT OF REQUEST AND IN RESPONSE TO THE RESPONDENTS ANSWER.

ON AUGUST 1, 2001, THE PETITIONER, MANUEL NIEVES WAS ARRESTED AND CHARGED WITH MULTIPLE COUNTS OF RAPE, UNLAWFUL SEXUAL CONTACT, AND TWO COUNTS OF CONTINUOUS SEXUAL ABUSE OF A CHILD. SEE DEL. SUPER. CT. CRIM. DKT. ITEM 1 & 2 IN CASE NO. 0107022700. IN MARCH 2002, A SUPERIOR COURT JURY CONVICTED THE PETITIONER OF THE STATED OFFENSES. SEE NIEVES V. STATE, 2005 WL 1200861, *1 (DEL. MAY 18, 2005). ON MAY 24, 2002, SUPERIOR COURT SENTENCED THE PETITIONER TO 322 YEARS IMPRISONMENT. SEE id. NIEVES CONVICTION AND SENTENCE WAS AFFIRMED ON APPEAL. NIEVES V. STATE, 2003 WL 329589 (DEL. FEB. 11, 2003).

IN OCTOBER 2003, NIEVES MOVED FOR MODIFICATION OF HIS SENTENCE UNDER DELAWARE SUPERIOR COURT CRIMINAL RULE 35(b), BUT THE MOTION WAS DISMISSED AS TIME BARRED. SEE DEL. SUPER. CT. CRIM. DKT. ITEMS 31 & 32 IN CASE NO.

1107022700. On or about May 2004, petitioner submitted an application for post conviction relief that was rejected by the Superior Court because the motion wasn't signed. See id. Dkt. Item 33. A properly filed motion was docketed on June 8, 2004. See id. Dkt. Item 34. This motion was denied by the Superior Court in August 2004, *State v. Nieves*, 2004 WL 1874669 (Del. Super. Ct. Aug 16, 2004) and Delaware Supreme Court affirmed the decision in May 2005, *Nieves v. State*, 2005 WL 1200861 at *2. Nieves federal habeas corpus is now before this Court.

Cause for Grant of Action

Pending before the Court is the petitioners and currently a motion for extension of time to file his reply, and amendments pursuant to Rules 12(a) through 12(c) dated October 17, 2006.

(a) The Court is again reminded that this is a pro se petitioner and shall be judged under less stringent rules. See *Neitzke v. Williams*, 490 U.S. 319, 109 (1989).

(b) The petitioners issues are complex and extensive in volume, due to the paper trail.

(c) Several of the petitioners arguments have been denied review by both the Superior Court, and Delaware Supreme Court as procedurally barred. Because initially they were not raised on Direct Appeal. See State's Answer at p. *?

(d) In order to properly dispose of the petitioners claims, a review of those not heard is necessary.

Wherefore, the petitioner pleads that by expanding the record. It will hopefully eliminate some unnecessary hearing in the future. See *Baines v. United States*, 423 F.2d 526, 529-530 (4th Cir. 1970).

Dated: January 23, 2007

Manuel Nieves

Delaware Correctional Center
Symrna, Delaware 19977

CERTIFICATE OF SERVICE

I, MANUEL NIEVES, hereby certify that I have served a true and correct copy(ies) of the attached: PETITIONER'S REQUEST FOR EXPANSION OF RECORD upon the following parties/person(s):

TO: Clerk
United States District Court
4 Caleb Doggs Building
844 King Street, Locker Box 18
Wilmington, Delaware 19801

TO: Carl Danberg
Attorney General of Delaware
Carve State Building
820 N King Street, 6th Floor
Wilmington, Delaware 19801

TO: _____

TO: _____

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977,

On this 23 day of January, 2007.

*Manuel Nieves

